IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

LORENZO S. RAMIREZ,
Petitioner.

No. 2 CA-CR 2019-0122-PR
Filed October 8, 2019

Petition for Review from the Superior Court in Pinal County
No. S1100CR201702398
The Honorable Christopher J. O'Neil, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Kent P. Volkmer, Pinal County Attorney
By Geraldine L. Roll, Deputy County Attorney, Florence
Counsel for Respondent

Law Office of Bret Huggins, Florence
By Bret H. Huggins
Counsel for Petitioner

MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Vásquez concurred.

B R E A R C L I F F E, Judge:

¶1 Lorenzo Ramirez seeks review of the trial court's order summarily dismissing his of-right petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. He argues, as he did below, that because he was a juvenile at the time he committed two dangerous felony offenses, the sentencing court erred by concluding it lacked discretion to suspend the imposition of sentence and place him on probation and was required to impose a prison term. We grant review but deny relief.[1]

¶2 Ramirez pleaded guilty to attempted armed robbery, aggravated assault with a deadly weapon, and weapons misconduct, all committed while he was fifteen years old. The trial court, concluding it was compelled to impose a prison term for the two dangerous offenses—attempted armed robbery and assault—sentenced Ramirez to concurrent five-year prison terms on those counts.

¶3 Ramirez sought post-conviction relief arguing the mandatory prison terms for dangerous offenses required by A.R.S. § 13-704 did not apply to juvenile offenders. Thus, he reasoned, the sentencing court had erred by concluding it lacked discretion to place him on probation. The court rejected that claim and summarily dismissed Ramirez's petition. This petition for review followed.

¶4 We review de novo issues of statutory interpretation. *State v. Simmons*, 238 Ariz. 503, ¶ 12 (App. 2015). Our goal is to ascertain the legislature's intent, and we will apply the plain language of an unambiguous statute without engaging in other means of interpretation. *Id.* Section 13-704(A) states that a juvenile who "has been tried as an adult and who stands convicted of a felony that is a dangerous offense shall be

[1]Ramirez's petition for review, which was prepared by counsel, contains a substantial handwritten edit. We discourage counsel from submitting briefing with handwritten edits in the future.

sentenced to a term of imprisonment." Ramirez contends, however, that A.R.S. §§ 13-501(F) and 13-921(A), read together, nonetheless allow the court to impose probation.

¶5 Ramirez was charged as an adult pursuant to § 13-501(A). Section 13-501(A) requires the state to charge a "juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age at the time the alleged offense is committed" and is charged with certain offenses, including any "violent felony offense" and "[a]ny offense that is properly joined to an offense listed in this subsection." *See also* A.R.S. § 13-501(H)(4) (defining violent felony offense).

¶6 Section 13-501(F) required the trial court to sentence Ramirez "in the same manner as an adult" for any conviction, "[e]xcept as provided in § 13-921." Section 13-921(A) states a court may place a juvenile offender on probation for a felony offense only if "[t]he defendant is not sentenced to a term of imprisonment" and "does not have a historical prior felony conviction." Thus, Ramirez reasons, because § 13-501(A) and § 13-921(A) do not "expressly limit" their scope to "non-dangerous" crimes, the trial court had authority to impose probation.

¶7 Ramirez reasons that § 13-501(F) and § 13-921(A) create an "exception . . . for juveniles aged 15-17" to the mandatory prison requirement of § 13-704(A). Ramirez's interpretation of § 13-501(A) applies with equal force to § 13-501(B), which allows the state to charge juveniles "at least fourteen years of age" as adults if accused of certain crimes, including dangerous offenses. But his proposed "exception" would scarcely be an exception at all, since it would apply to nearly all juveniles charged as adults for dangerous offenses, excepting only those previously convicted of a felony—that is, those who had previously been tried and convicted as an adult. *See* §§ 13-501(C), 13-921(A); *see also* A.R.S. § 8-207(A) ("[A]n order of the juvenile court in proceedings under this chapter shall not be deemed a conviction of crime . . . .").

¶8 In sum, if we were to adopt Ramirez's view, we would effectively disregard the plain language of § 13-704(A), which requires a prison term for any juvenile tried as an adult who is convicted of a dangerous offense. "We must interpret the statute so that no provision is rendered meaningless, insignificant, or void." *Mejak v. Granville*, 212 Ariz. 555, ¶ 9 (2006). We cannot agree our legislature's unqualified command that juveniles who commit dangerous offenses be sentenced to prison was

intended to encompass only those juveniles previously tried and convicted as adults.

¶9 And Ramirez is incorrect that applying the plain language of § 13-704(A) "giv[es] no meaning" to §§ 13-501(F) and 13-921(A) because "most, if not all, of the crimes" allowing or requiring transfer to adult court are dangerous offenses. Forcible sexual assault, requiring transfer under § 3-501(A)(3), is not a dangerous offense as defined by A.R.S. § 13-105(13) because it does not involve "the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person." Nor are offenses falling within §§ 13-501(A)(6) and 13-501(A)(7) always dangerous offenses. And § 13-501(B) encompasses still more offenses that are not necessarily dangerous offenses. *See, e.g.*, A.R.S. §§ 13-1507(B) (second-degree burglary is class three felony); 13-2312(C), (D) (illegal control of an enterprise including a minor is a class two felony); 13-3553(C) ("Sexual exploitation of a minor is a class 2 felony . . . .").

¶10 We decline Ramirez's invitation to disregard axiomatic principles of statutory interpretation in favor of applying the rule of lenity or relying on the statutes' titles. The interplay between §§ 13-501, 13-704, and 13-921 is not susceptible to more than one reasonable interpretation and, accordingly, we need not look past the statutes' plain language. *See State v. Holle*, 240 Ariz. 300, ¶ 16 (2016) (statutes ambiguous if "susceptible to more than one reasonable interpretation"); *State v. Eagle*, 196 Ariz. 188, ¶ 7 (2000) (statutory titles not part of the statute); *State v. Florez*, 241 Ariz. 121, n.6 (App. 2016) (rule of lenity does not apply to unambiguous statute); *Simmons*, 238 Ariz. 503, ¶ 12 (courts will not go beyond plain language if statute unambiguous).

¶11 The trial court correctly concluded the sentencing court was required to impose a prison term for Ramirez's dangerous offenses. Accordingly, it did not err in summarily dismissing his petition for post-conviction relief. *See* Ariz. R. Crim. P. 32.6(d)(1); *State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015) (we review summary dismissal for abuse of discretion).

¶12 We grant review but deny relief.